

REMARKS

This communication is in response to a Final Office Action dated November 14, 2006. In that Office Action, the Examiner rejected claims 1-48 under 35 U.S.C. § 103(a) as anticipated by the combination of Arazi et al. (U.S. Patent No. 6,430,395) with Larsson et al. (U.S. Patent No. 6,751,200). The Examiner also rejected claims 4, 20, 25, 28, 29, 42 and 47 under 35 U.S.C. § 103(a) as anticipated by the combination of Martini et al. (U.S. Patent No. 6,675,015) with Larsson.

Applicant believes that cancelled claims 25-28 and 47-48 are patentable, but is cancelling the claims in order to expedite prosecution. This is not intended to prejudice these claims in subsequent continuation applications. Further, claims 21 and 23 have been cancelled and claims 20, 22 and 24 have been amended in order to conform with the new Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility. Finally, claims 9, 37 and 45 have been cancelled because their subject matter has been incorporated into pending independent claims.

Finality of Rejection Should Be Withdrawn

The M.P.E.P § 706.07(a) states that "under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement..." Applicants respectfully request the finality of rejection be withdrawn as amendments to the claims in the previous response did not necessitate the Examiner's new grounds of rejection.

For example, in applicant's previous response, claim 4 was amended to include part of the subject matter of original claim 6. Similar amendments were added to the other independent claims. For example, the subject matter of original claim 33 was added to claim 29, and the subject matter of original claim 43 was added to claim 42.

Therefore, the Examiner's new grounds of rejection were not necessitated by applicant's amendment, but instead were based on subject matter already present in originally filed dependent claims.

Applicant contends that the subject matter rejected under new grounds were present in the originally filed claim set and therefore should have been covered in the Examiner's initial search of the original claims as filed. Applicant respectfully requests the finality of the rejection be withdrawn for at least the reasons stated above.

Even if Finality is not Withdrawn, Current Amendments Should be Entered

The proposed amendments should be entered because:

- (a) they do not raise new issues that would require further consideration and/or search, because in part, they simply add limitations to independent claims that are found in previously pending dependent claims (and thus such limitations should have already been considered);
- (b) support for the amendments can be found, for example, in previously pending dependent claims 9, 37 and 45, and thus they do not raise the issue of any new matter;
- (c) the amendment is believed to place the application in better form for appeal by simplifying and clarifying issues for appeal by effectively synthesizing arguments made in the previous Office Action and Response; and
- (d) no new additional claims are being added without cancelling a corresponding number of finally rejected claims.

In general, the present amendments are necessary and were not presented earlier because the November 14, 2006 Office Action appears to acknowledge at least some of

the differences between the claims and the references. The present amendments are believed to clarify distinctions between the claims and these references, and were not presented earlier, in part, because attorney for the applicants believed that the previous Response dated September 15, 2006 clarified these differences.

Rejections Under 35 U.S.C. § 103

In the Office Action, claims 1-48 are rejected under 35 U.S.C. § 103 as being obvious in light of the combination of Arazi et al. with Larsson et al.

The Examiner also rejected claims 4, 20, 25, 28, 29, 42, and 47 under 35 U.S.C. § 103 as being obvious in light of the combination of Martini et al. with Larsson. Claims 25 and 28 have now been cancelled.

For a claim to be rejected as obvious under 35 U.S.C. § 103, M.P.E.P. § 2143.03 requires that "all of the claim limitations must be taught or suggested by the prior art."

Claims 4, 20, 29 and 42 have been amended to include the limitation that the base station searches for neighbors by sending out a low power request and a high power request and using neighbors' responses to those signals to classify them into near and far communications ranges. A similar limitation was already present in independent claim 1. Neither the combination of Martini and Larsson nor the combination of Arazi and Larsson shows this limitation. While there are other differences between the claims and the applied references, applicant is raising only this issue at this time. This limitation was present in dependent claims 9, 37 and 45, which have already been considered patentable over the combination of Martini and Larsson. Therefore, Applicant respectfully submits that the amended claims are also patentable over Martini and Larsson.

Further, the combination of Arazi and Larsson also fails to show the limitation of using multiple power levels to classify neighbors into near and far communications ranges. Arazi describes a system that transmits at multiple power levels (Col. 21, lines 62-65, col.

22, lines 5-25, and Figure 10). However, the system uses the higher power level transmissions solely as an out-of-band means to synchronize time of day between neighboring base stations. (Col. 21, lines 49-53 and lines 58-65). Base stations do not respond to the higher-power transmissions, nor do they store any range information based on these high power signals. Larsson also fails to show this limitation. Therefore, the combination of Arazi and Larsson fails to show all of the limitations of claim 1 or amended claims 4, 20, 29 and 42.

The presently claimed invention is directed more to setting up a wireless network where neighboring base stations locate each other directly and automatically. Both Martini and Arazi assume that a wireless network has already been established and base stations already have information regarding each other. Indeed, both Martini and Arazi would benefit from the claimed invention because it could help both of their systems to become more quickly and easily established. See, e.g., page 4 of the present application.

Therefore, a *prima facie* case of anticipation under Section 103 has not been established with respect to these claims and, accordingly, the undersigned requests the withdrawal of the Section 103 rejection of these claims and their dependent claims 2-3, 5-8, 10-19, 22, 24, 30-36, 38-44, and 46, which include the features of these independent claims.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please

charge our Deposit Account No. 50-0665, under Order No. 340158002US1 from which the undersigned is authorized to draw.

Dated: February 13, 2007

Respectfully submitted,

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